

MORRISON TENENBAUM PLLC  
Lawrence F. Morrison, Esq.  
87 Walker Street, Flr. 2  
New York, New York 10013  
Tel.: (212) 620-0938  
Cell: (347) 236-2895  
Fax: (646) 998-1972  
*Counsel to Defendant*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

-----X  
NEW BRUNSWICK PARKING AUTHORITY,

**NOTICE OF REMOVAL**

Plaintiffs,

Case No. \_\_\_\_\_

v.

BROTHER JIMMY'S FRANCHISING LLC

Defendant.

-----X

**PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 Defendant Brother Jimmy's Franchising LLC ("Defendant LLC"), a Delaware limited liability company registered as a foreign limited liability company in the State of New York, hereby removes the above-captioned action from the Superior Court of New Jersey, Law Division, Middlesex County, to the United States District Court for the District of New Jersey, based upon the following:

1. Defendant LLC is a limited liability company duly formed and validly existing under the laws of the State of Delaware. (*See Exhibit A*)
2. Defendant LLC is registered as a Foreign Limited Liability Company in the State of New York. (*See Exhibit B*)
3. On or about March 14, 2019, Plaintiff, New Brunswick Parking Authority, ("Plaintiff") filed an amended complaint adding Brother Jimmy's Franchising LLC, amongst other

defendants, to its original complaint dated May 14, 2018 (the “Amended Complaint”). A copy of the original summons and complaint and the Amended Complaint are attached hereto as Exhibit C and incorporated herein by reference.

4. Plaintiff served the original complaint on the original defendant, New Brunswick BBQ, LLC, on June 27, 2018 by a private server at Princeton South Corporate Center, Suite 160, 100 Charles Ewing Boulevard, Ewing, New Jersey 08638.

5. On information and belief, the original defendant has not appeared in this action.

6. Plaintiff served the Amended complaint of the Defendant LLC by hand delivery to a Brother Jimmy’s restaurant location at 181 Lexington Avenue in New York, NY (“Brother Jimmy’s Lexington”). (See Plaintiff’s Affidavit of Service, attached hereto as Exhibit D.)

7. The registered agent in Delaware for Defendant LLC is 251 Little Falls Drive, Wilmington, Delaware 19808, as set forth on the website of the Secretary of State for the State of Delaware.

8. The address for notice on Defendant LLC as a Foreign Limited Liability Company in New York, as identified on the website of the Secretary of State for the State of New York, is 53 W. 36<sup>th</sup> Street, Ste. 201, New York, New York 10018.

9. Plaintiff has not as of the date hereof served Defendant LLC at its address for notice on file with the Secretary of State of Delaware or the Secretary of State of New York, nor, on information and belief, has Plaintiff effected service upon either Secretary of State as require pursuant to 10 DE Code §3111 and New York CPLR §311.

10. Defendant LLC is not a resident of the State of New Jersey, nor does it have business operations within the State of New Jersey.

11. Pursuant to 28 U.S.C. § 1441, any civil action brought in a State court of which the District Courts of the United States have original jurisdiction, may be removed by a defendant, to

the District Court of the United States for the district and division embracing the place where such action is pending.

12. This Honorable United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because this is a civil action in which there is complete diversity of citizenship between Plaintiff and Defendant and in which the amount in controversy exceeds \$75,000, exclusive of interest and costs.

13. Diversity of citizenship existed among the parties when the Amended Complaint was filed on or about March 14, 2019. Diversity of citizenship still exists among the parties at the time this Notice of Removal is being filed.

14. In this matter, Plaintiff alleges that “Defendants have failed to pay rent, common area maintenance fees, utility fees, and other charges due to Plaintiff under the terms of the Lease Agreement since approximately October, 2017”. (*See* Exhibit A, Amended Complaint Par. 15.)

15. While Defendant denies all liability to Plaintiff and denies that Plaintiff is entitled to any of the relief sought by the Amended Complaint, based upon Defendant’s knowledge and belief the amount in controversy exceeds the \$75,000 jurisdictional threshold under 28 U.S.C. § 1332.

16. Pursuant to 28 U.S.C. §1441(d), Defendant LLC has cause to believe that the Amended Complaint was not properly served upon it at the correct address for notice on file with (a) the Delaware Secretary of State, or (b) the Secretary of State of New York where Defendant LLC is registered as Foreign Limited Liability Company.

17. Notwithstanding Plaintiff’s failure to properly serve Defendant LLC at the listed addresses for notice or through the applicable Secretaries of State, the Default Notice in this action was served on January 13<sup>th</sup>, 2020 at 181 Lexington Avenue, New York, New York 10016, an address not affiliated with Defendant LLC.

18. This matter was first brought to Defendant LLC's attention on January 19, 2020.

19. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being submitted for filing with the Clerk of the Superior Court, Law Division, Middlesex County, and is being served upon Plaintiff.

20. In filing this Notice of Removal, Defendant LLC does not waive any defenses in service of process, venue or personal jurisdiction.

21. For the foregoing reasons, this United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a).

Dated: New York, New York  
February 3, 2020

MORRISON TENENBAUM PLLC

By: /s/ Lawrence Morrison  
Lawrence Morrison  
87 Walker Street, Floor 2  
New York, NY 10013  
T: (212) 620-0938

*Counsel to Defendant, Brother  
Jimmy's Franchising, LLC*

To:

John F. Gillick, Esq.  
Rainone Coughlin Minchello, LLC  
555 U.S. Highway 1 South, Suite 440  
Iselin, New Jersey 08830  
*Attorneys for Plaintiff*

**LOCAL CIVIL RULE 11.2 VERIFICATION**

Other than the action filed in the Superior Court of New jersey, law Division, Middlesex County, which is subject of this Notice of Removal, the matter in controversy, to the best of Defendant's knowledge, information and belief, is not subject of any other action pending in any court, or of any other pending arbitration or administrative proceeding.

MORRISON TENENBAUM, PLLC  
Attorneys for Brother Jimmy's Franchising, LLC

By: /s/ Lawrence Morrison  
Lawrence Morrison